

JD
1/17/18

THOMAS J HENRY

INJURY ATTORNEYS

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January 15, 2018

VIA CMRRR: 7017 1450 0000 5028 1555

John F. Paniszczyn

United States Attorney for the Western District of Texas

601 N.W. Loop 410, Suite 600

San Antonio, Texas 78216

RE: Cause No. 17-MC-01210-XR: *Roy White v. United States Air Force, et al.*, in the
United States District Court for the Western District of Texas, San Antonio
Division

Dear Mr. Paniszczyn:

Enclosed are the SF95 Forms to make a claim under the FTCA for damages sustained on
November 5, 2017:

- 1.) Roy White, Individually and as Represented of the Estate of Lula White
- 2.) Scott Holcombe, Individually and as Representative of the Estates of Bryan Holcombe and Karla Holcombe; and
- 3.) Chancie McMahan, Individually and as Next of Friend of R.W., a Minor.

Should you have any questions or need any additional information, please do not hesitate to
contact our offices.

Very truly yours,

THOMAS J. HENRY, INJURY ATTORNEYS



Marco Crawford

Enclosure:

CORPUS CHRISTI

521 SEASIDE STREET
CORPUS CHRISTI, TEXAS 78401
PHONE: (361) 905-0601

SAN ANTONIO

4715 FREDERICKSBURG, STE 507
SAN ANTONIO, TEXAS 78229
PHONE: (210) 656-1000

HOUSTON

12 GREENWAY PLAZA, STE 1100
HOUSTON, TEXAS 77046
PHONE: (713) 338-2525

71

CC: **VIA CMRRR: 7017 1450 0000 5028 1531**

The Claims and Tort Litigation Division
1500 West Perimeter Road, Suite 1700
Joint Base Andrews, MD 20762

VIA CMRRR: 7017 1450 0000 5028 1548

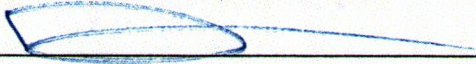
12FTW/JA

Attn: Claims Office

1 Washington Circle, Suite 6
JBSA-Randolph, Texas 78150-4564

VIA CMRRR: 7017 1450 0000 5028 1562

United States Air Force
1690 Air Force Pentagon
Washington, D.C. 20330-1670

CLAIM FOR DAMAGE, INJURY, OR DEATH		INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.		FORM APPROVED OMB NO. 1105-0008	
1. Submit to Appropriate Federal Agency: United States Air Force 1690 Air Force Pentagon Washington, D.C. 20330-1670			2. Name, address of claimant, and claimant's personal representative if any. (See instructions on reverse). Number, Street, City, State and Zip code. Roy White individually and as representative of the estate of Lula White.		
3. TYPE OF EMPLOYMENT <input type="checkbox"/> MILITARY <input checked="" type="checkbox"/> CIVILIAN	4. DATE OF BIRTH 11/15/1965	5. MARITAL STATUS Married	6. DATE AND DAY OF ACCIDENT 11/06/2017	7. TIME (A.M. OR P.M.) 11:20 A.M.	
8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary). Devin Kelley ("Kelley") entered the First Baptist Church in Sutherland Springs, Texas, wielding an AR-15 pattern Ruger AR556 semi-automatic rifle and massacred the parishioners, killing 26 people and injuring 20 others. Roy White's Mother, Lula White, was among those killed by Kelley. The U.S. Air Force failed to report Kelley's 2012 domestic violence convictions to the FBI--because of that failure, and the Air Force's negligence, Kelley passed background checks and was allowed to purchase the gun he used in the mass shooting, when he should have been blocked from doing so.					
9. PROPERTY DAMAGE					
NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code).					
BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED. (See instructions on reverse side).					
10. PERSONAL INJURY/WRONGFUL DEATH					
STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDENT. See attached.					
11. WITNESSES					
NAME		ADDRESS (Number, Street, City, State, and Zip Code)			
See attached.		See attached.			
12. (See instructions on reverse). AMOUNT OF CLAIM (in dollars)					
12a. PROPERTY DAMAGE	12b. PERSONAL INJURY	12c. WRONGFUL DEATH	12d. TOTAL (Failure to specify may cause forfeiture of your rights).		
0.00	25,000,000	25,000,000	50,000,000		
I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.					
13a. SIGNATURE OF CLAIMANT (See instructions on reverse side). 			13b. PHONE NUMBER OF PERSON SIGNING FORM (830)534-0862		14. DATE OF SIGNATURE 1/15/18
CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM The claimant is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729).			CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.)		

Rec'd
JAN 17 2018
AFLOA/JACC 927

18-5985

INSURANCE COVERAGE

In order that subrogation claims may be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of the vehicle or property.

15. Do you carry accident insurance? ☐ Yes If yes, give name and address of insurance company (Number, Street, City, State, and Zip Code) and policy number. ☐ No

N/A

16. Have you filed a claim with your insurance carrier in this instance, and if so, is it full coverage or deductible? ☐ Yes ☐ No 17. If deductible, state amount.

N/A

0.00

18. If a claim has been filed with your carrier, what action has your insurer taken or proposed to take with reference to your claim? (It is necessary that you ascertain these facts).

N/A

19. Do you carry public liability and property damage insurance? ☐ Yes If yes, give name and address of insurance carrier (Number, Street, City, State, and Zip Code). ☐ No

N/A

INSTRUCTIONS

Claims presented under the Federal Tort Claims Act should be submitted directly to the "appropriate Federal agency" whose employee(s) was involved in the incident. If the incident involves more than one claimant, each claimant should submit a separate claim form.

Complete all items - Insert the word NONE where applicable.

A CLAIM SHALL BE DEEMED TO HAVE BEEN PRESENTED WHEN A FEDERAL AGENCY RECEIVES FROM A CLAIMANT, HIS DULY AUTHORIZED AGENT, OR LEGAL REPRESENTATIVE, AN EXECUTED STANDARD FORM 95 OR OTHER WRITTEN NOTIFICATION OF AN INCIDENT, ACCOMPANIED BY A CLAIM FOR MONEY

Failure to completely execute this form or to supply the requested material within two years from the date the claim accrued may render your claim invalid. A claim is deemed presented when it is received by the appropriate agency, not when it is mailed.

If instruction is needed in completing this form, the agency listed in item #1 on the reverse side may be contacted. Complete regulations pertaining to claims asserted under the Federal Tort Claims Act can be found in Title 28, Code of Federal Regulations, Part 14. Many agencies have published supplementing regulations. If more than one agency is involved, please state each agency.

The claim may be filled by a duly authorized agent or other legal representative, provided evidence satisfactory to the Government is submitted with the claim establishing express authority to act for the claimant. A claim presented by an agent or legal representative must be presented in the name of the claimant. If the claim is signed by the agent or legal representative, it must show the title or legal capacity of the person signing and be accompanied by evidence of his/her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian or other representative.

If claimant intends to file for both personal injury and property damage, the amount for each must be shown in item number 12 of this form.

DAMAGES IN A **SUM CERTAIN** FOR INJURY TO OR LOSS OF PROPERTY, PERSONAL INJURY, OR DEATH ALLEGED TO HAVE OCCURRED BY REASON OF THE INCIDENT. THE CLAIM MUST BE PRESENTED TO THE APPROPRIATE FEDERAL AGENCY WITHIN **TWO YEARS** AFTER THE CLAIM ACCRUES.

The amount claimed should be substantiated by competent evidence as follows:

- (a) In support of the claim for personal injury or death, the claimant should submit a written report by the attending physician, showing the nature and extent of the injury, the nature and extent of treatment, the degree of permanent disability, if any, the prognosis, and the period of hospitalization, or incapacitation, attaching itemized bills for medical, hospital, or burial expenses actually incurred.
- (b) In support of claims for damage to property, which has been or can be economically repaired, the claimant should submit at least two itemized signed statements or estimates by reliable, disinterested concerns, or, if payment has been made, the itemized signed receipts evidencing payment.
- (c) In support of claims for damage to property which is not economically repairable, or if the property is lost or destroyed, the claimant should submit statements as to the original cost of the property, the date of purchase, and the value of the property, both before and after the accident. Such statements should be by disinterested competent persons, preferably reputable dealers or officials familiar with the type of property damaged, or by two or more competitive bidders, and should be certified as being just and correct.
- (d) Failure to specify a sum certain will render your claim invalid and may result in forfeiture of your rights.

PRIVACY ACT NOTICE

This Notice is provided in accordance with the Privacy Act, 5 U.S.C. 552a(e)(3), and concerns the information requested in the letter to which this Notice is attached.

- A. **Authority:** The requested information is solicited pursuant to one or more of the following: 5 U.S.C. 301, 28 U.S.C. 501 et seq., 28 U.S.C. 2671 et seq., 28 C.F.R. Part 14.

- B. **Principal Purpose:** The information requested is to be used in evaluating claims.
 C. **Routine Use:** See the Notices of Systems of Records for the agency to whom you are submitting this form for this information.
 D. **Effect of Failure to Respond:** Disclosure is voluntary. However, failure to supply the requested information or to execute the form may render your claim "invalid."

PAPERWORK REDUCTION ACT NOTICE

This notice is solely for the purpose of the Paperwork Reduction Act, 44 U.S.C. 3501. Public reporting burden for this collection of information is estimated to average 6 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Director, Torts Branch, Attention: Paperwork Reduction Staff, Civil Division, U.S. Department of Justice, Washington, DC 20530 or to the Office of Management and Budget. Do not mail completed form(s) to these addresses.

CONTINUATION OF SF95

CLAIMANT'S NAME AND ADDRESS:

Roy White individually and as representative of the estate of Lula White.

ATTORNEYS' NAME AND ADDRESS:

Robert C. Hilliard
Catherine D. Tobin
Marion M. Reilly
Bradford Klager
Hilliard Martinez Gonzales
719 S. Shoreline Blvd.
Corpus Christi, Texas 78401

Thomas J. Henry
Marco A. Crawford
Dennis J. Bentley
Thomas J. Henry Injury Attorneys
521 Starr Street
Corpus Christi, Texas 78401

1. Submit to Appropriate Federal Agency:

VIA CMRRR: 7017 1450 0000 5028 1531

The Claims and Tort Litigation Division
1500 West Perimeter Road, Suite 1700
Joint Base Andrews, MD 20762

VIA CMRRR: 7017 1450 0000 5028 1548

12FTW/JA
Attn: Claims Office
1 Washington Circle, Suite 6
JBSA-Randolph, Texas 78150-4564

VIA CMRRR: 7017 1450 0000 5028 1555

John F. Paniszczy
United States Attorney for the Western District of Texas
601 N.W. Loop 410, Suite 600
San Antonio, Texas 78216

VIA CMRRR: 7017 1450 0000 5028 1562

United States Air Force
1690 Air Force Pentagon
Washington, D.C. 20330-1670

11. Witnesses:

At this time, Roy White is unaware of the names and contact information for the witnesses to the incident made the basis of this claim, other than those who lost their lives.

10. STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDENT.

Roy White's mother, Lula White, was among those killed as a result of the U.S. Air Force's wrongful and negligent conduct. Specifically, the Air Force failed to enter Kelley's domestic violence court-martial into a federal database, which would have prevented Kelley from purchasing a firearm. As a result of the Air Force's negligence, Kelley was able to purchase the rifle he used to kill Lula White.

Kelley enlisted in the Air Force in 2010 and received a bad conduct discharge from service in 2014. While in the Air Force, Kelley was convicted of domestic assault on his wife and infant stepson, cracking the child's skull. He was sentenced to one year's confinement.

The federal laws requiring Kelley's conviction to be recorded in the database was enacted to prevent exactly the type of harm that is the basis of this claim. Under terms of a 1996 amendment to the Gun Control Act, known as Lautenberg Amendment, the law lists 11 criteria that would bar someone from purchasing a firearm, including 2 that would have applied to Kelley.

This domestic violence conviction alone should have stopped Kelley from legally purchasing the military-style rifle and three other guns he bought in the last four years. Kelley's conviction of a crime punishable by more than a year in prison also required his entry into the database. Both would have flagged Kelley as ineligible to buy the weapons, if the FBI had been made aware of either of these facts. But the Air Force failed to enter his name for either reason into the federal database for background checks on gun purchasers.

Air Force personnel knew about Kelley's dangerous past and had the obligation to warn others by recording his conviction in the FBI's database. Roy White and Lula White's injuries were foreseeable.